

**SACRAMENTO POLICE DEPARTMENT
ADMINISTRATIVE PENALTY APPEAL HEARING
RECORD OF DECISION**

IN THE MATTER OF:

SPD REPORT #: 18-203355

APPELLANT: Thuyen Le

VIOLATION ADDRESS: 7642 Tierra Glen Way

SACRAMENTO CITY CODE SECTION(S): 8.132.040

PROPOSED ADMINISTRATIVE PENALTY: \$249,000

HEARING EXAMINER: Camille Dixon

HEARING DATE: February 21, 2019

This matter was heard at a noticed public hearing. The following witnesses submitted a written explanation, appeared and/or testified at the hearing on behalf of either the City or the Appellant as noted below. Any written materials submitted with the protest or at the hearing were reviewed by the Hearing Examiner and are on file in the offices of the City of Sacramento.

City Staff: Officer Jesus Trejo – Sacramento Police Department
Emilio Camacho – Deputy City Attorney

Appellants: Thuyen Le for the Le/Vo Family Trust
Robert J. Saria – Attorney

TESTIMONY SUMMARY

City Staff:

Sacramento Police Department (SPD) Officer Trejo testified that on June 20, 2018, SPD received information regarding a possible illegal cannabis cultivation operation occurring at 7642 Tierra Glenn Way, Sacramento, California.

During his investigation, he found that the Le/Vo Family Trust 2007 has owned 7642 Tierra Glenn Way as of January 24, 2018, per Sacramento County Parcel Viewer. The Sacramento County Parcel Viewer shows Thuyen Trong Le and Lily Hoa Thi Vo as the trustees.

On July 03, 2018, SPD executed a search warrant at 7642 Tierra Glen Way on suspicion of an illegal cannabis cultivation. Nobody was located inside the residence. Officers located 504 cannabis plants. Several rooms were being used to cultivate marijuana. Photos were also taken on scene.

The power usage for this property per SMUD records has been high, consistent with an indoor marijuana cultivation going back to February of 2015.

Pursuant to SCC 8.132.050 (E)(1), an administrative penalty in the amount of \$249,000 (i.e., \$500 per plant over six plants) was issued to the owner of the property for a violation of SCC 8.132.040(B). The citation was posted at the residence. The City also mailed a copy of the administrative penalty to the property owner. The administrative penalty in this case is appropriate due to the potential high proceeds to be gained from the cultivation of illegal cannabis.

Deputy City Attorney:

Deputy City Attorney Emilio Camacho questioned the property owner Thuyen Le if he lived at the property and if he was aware of the Rental Housing Inspection Program. He stated that the Rental Housing Inspection Program exemption form filled out by Thuyen Le stated that he and his brother and sister live in the house. He questioned Thuyen Le as to how many tenants have resided in the house since 2015. He also asked how he recruited his tenants. He provided a copy of the SMUD records for the property which showed that since 2015, the electric bills for the past three years were very high, indicating cannabis cultivation.

Appellant:

Property owner Thuyen Le stated that he is not aware of the City's Rental Housing Inspection program. He also stated that he might have received something regarding the Rental Housing Inspection Program when he bought the house. He stated that he bought this house as a retirement property. He only fixes the house but does not live there.

Thuyen Le stated that he had one tenant from 2015 to 2017. He then fixed the house and had another tenant move-in in November 2017. He also stated that he found his tenant from the contractor who had been working on the house. He stated that he interviewed his tenant and they were from New York. His tenant told him they have a restaurant in West Sacramento.

Thuyen Le stated that he asked his prior tenant in 2015 if he can change the AC filter. The tenant stated that they can do all that and he does not need to do it. He also stated that he drives by the property every month, but he does not go inside the property.

Thuyen Le stated that when he got the new tenant on November 1, 2017, and he did a move-in inspection and walk thru, but they do not speak English. They have an 8 to 10-year-old girl who was translating for them.

Thuyen Le stated that the rent was \$1,400.00 a month. He also stated that the rent comes directly to his bank account. He stated that he did not allow marijuana to be grown in his property.

Thuyen Le stated that he is employed at Kaiser Permanente as a Pharmacist.

FINDINGS OF FACT:

After examining the evidence submitted and arguments offered by City staff, the appellant and witness, if any; the owner's efforts, or lack thereof, to comply with the City Code; the staff time and costs incurred in investigating the violation; the extent, if any, to which the fine or penalty would impose a substantial economic hardship; the seriousness of the violation; the Hearing Examiner hereby makes the following findings:

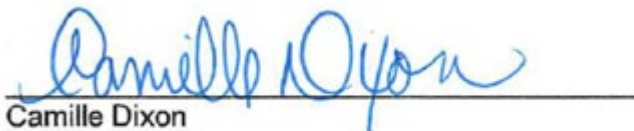
- A. The Administrative Penalty was properly issued and served.
- B. The Appellant submitted evidence showing that rent payment were made through a bank account. He verified his tenant's income, conducted a move-in inspection, and regularly drove by the property.
- C. The Appellant is a licensed pharmacist who understands the dangers of illegal drugs.
- D. The Appellant filed a claim with his insurance company, based on the criminal activity, to get the property repaired.
- E. There is not enough evidence to show the Appellant knew or should have known of the illegal cannabis grow.

DECISION:

The appeal is upheld. The Administrative Penalty issued on July 3, 2018 in the amount of \$249,000 shall be reduced to \$0.

IT IS SO ORDERED:

Dated: March 21, 2019


Camille Dixon
Hearing Examiner

PAYMENT: ☐ Applicable ☒ Not Applicable

See enclosed invoice.

If the administrative penalty is not paid within the time specified, it may be made a personal obligation of the responsible party, and if applicable may also be made a lien against the property on which the violation occurred, and may be made a special assessment collected at the same time and in the same manner as ordinary secured property taxes are collected.

APPEAL

If you desire to seek judicial review of the Hearing Examiner's decision, you must file a petition for judicial review with the Sacramento County Superior Court either no later than the 90th day following the date of this decision per California Code of Civil Procedures Sections 1094.5 and 1094.6, or the 20th day following the date of service the decision per California Government Code Section 53069.4.